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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

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**DOUGLAS MOOMEY,**

**Plaintiff,**

**v.**

**EXPRESS MESSENGER SYSTEMS,  
INC., dba ONTRAC, et. al.,**

**Defendants.**

**ORDER AFFIRMING & ADOPTING  
REPORT & RECOMMENDATION**

**Case No. 2:21-CV-575-DAK-JCB**

**Judge Dale A. Kimball**

**Magistrate Judge Jared C. Bennett**

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This case was assigned to United States District Court Judge Dale A. Kimball, who then referred the case to United States Magistrate Judge Jared C. Bennett under 28 U.S.C. § 636(b)(1)(B). On July 22, 2022, Magistrate Judge Bennett issued a Report and Recommendation [ECF No. 48], recommending that the court deny Plaintiff's Motion to Amend Original Complaint [ECF No. 41] and dismiss the action with prejudice.

The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. As of the date of this Order, Plaintiff has not submitted an objection, and twenty-seven days past the issuance of the Report and Recommendation. The deadline for submitting an objection, therefore, has passed.

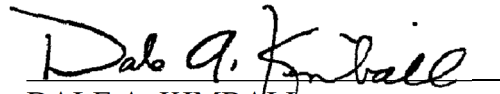
A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Bennett's analysis and recommendations in their entirety. The court agrees that Plaintiff's proposed

Amended Complaint fails for the same reasons as previously determined by the court, fails to state an ADA claim, and further amendment would be futile. Therefore, the court adopts and affirms Magistrate Judge Bennett's Report and Recommendation as the order of the court.

Accordingly, Plaintiff's Motion to Amend Original Complaint [ECF No. 41] is DENIED and Plaintiff's action is dismissed with prejudice.

DATED this 18th day of August, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball", written over a horizontal line.

DALE A. KIMBALL  
United States District Judge